

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAVID MOON a/k/a AZELIE
DELAINA MOON,

Plaintiff,

Case No. 2:24-cv-12850

v.

Honorable Susan K. DeClercq
United States District Judge

MATTHEW SISSEN, et al.,

Defendants.

Honorable Kimberly G. Altman
United States Magistrate Judge

**ORDER ADOPTING REPORT AND RECOMMENDATION (ECF No. 50),
GRANTING IN PART AND DENYING IN PART DEFENDANTS'
MOTION TO DISMISS AND FOR SUMMARY JUDGMENT ON THE
BASIS OF EXHAUSTION (ECF No. 34), AND DENYING PLAINTIFF'S
MOTION TO SUSPEND MISCONDUCTS, POINTS, AND
ADMINISTRATIVE SANCTIONS PENDING FINAL DISPOSITION OF
CASE (ECF No. 39)**

On April 24, 2025, Magistrate Judge Kimberly G. Altman issued a report and recommendation (R&R) addressing two motions filed in this case. *See* ECF No. 50.

The first motion addressed by the R&R is Defendants' motion to dismiss Plaintiff's complaint and for summary judgment on the basis of exhaustion. *See* ECF No. 34. The R&R recommends granting Defendants' motion in part to the extent that the only claims in Plaintiff's complaint that should survive are (1) Plaintiff's equal protection claim against Perry for requiring her to wear a beard guard; (2) Plaintiff's due process claim against Defendant Campbell for denying her search

accommodation; (3) Plaintiff's First Amendment claims against all Defendants *except* Scudder; (4) Plaintiff's ELCRA claims against all Defendants *except* Scudder; and (5) all claims against Defendant John Doe. *See* ECF No. 50 at PageID.530; 535.

The second motion addressed by the R&R is Plaintiff's "Motion to Suspend Misconducts, Points, and Administrative Sanctions Pending Final Disposition of the Case," ECF No. 39, which was properly construed by Judge Altman as a motion for a preliminary injunction. *See* ECF No. 50 at PageID.531–34. The R&R recommends denial of Plaintiff's motion. *See id.*

Judge Altman provided 14 days to object to the R&R, but neither party did so. All parties have therefore forfeited their right to appeal Judge Altman's findings. *See Berkshire v. Dahl*, 928 F.3d 520, 530–31 (6th Cir. 2019) (citing *Thomas v. Arn*, 474 U.S. 140, 149 (1985)). Moreover, there is no prejudicial clear error in the report.

Accordingly, it is **ORDERED** that the Report and Recommendation, ECF No. 50, is **ADOPTED**.

Further, it is **ORDERED** that:

1. Defendants' Motion to Dismiss and for Summary Judgment on the Basis of Exhaustion, ECF No. 34, is **GRANTED IN PART** and **DENIED IN PART**¹;

¹ Defendants' Motion, ECF No. 34, is denied in part to the extent that the following claims will move forward: (1) Moon's equal protection claim against Perry for requiring her to wear a beard guard; (2) Moon's due process claim against Defendant

2. Defendant Scudder is **DISMISSED WITHOUT PREJUDICE** from this case for Plaintiff's failure to exhaust administrative remedies; and
3. Plaintiff's Motion to Suspend Misconducts, Points, and Administrative Sanctions Pending Final Disposition of the Case, ECF No. 39, is **DENIED**.

This is not a final order and does not close the above-captioned case.

/s/Susan K. DeClercq
SUSAN K. DeCLERCQ
United States District Judge

Dated: May 20, 2025

Campbell for denying her search accommodation; (3) Moon's First Amendment claims against all Defendants *except* Scudder; (4) Moon's ELCRA claims against all Defendants *except* Scudder; and (5) all claims against Defendant John Doe. *See* ECF No. 50 at PageID.530; 535.